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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,010	12/30/2003	Jay R. Machael	087522.785-347	8394

28104 7590 01/31/2005

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EXAMINER	
D ADAMO, STEPHEN D	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/749,010	MACHAEL ET AL.	
	Examiner	Art Unit	
	Stephen D'Adamo	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-28 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-28 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 04 January 2005 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/29/2004.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

On page 5, the specification includes blanks for the co-pending applications assigned to the same assignee. As a reminder, the application numbers must be inserted.

Appropriate correction is required.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: small guide 69. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 12 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "said plate" on line 2. There is insufficient antecedent basis for this limitation in the claim.

Throughout the claims, different terminology is used for the same limitations. For example, "slide element" and "slide" are recited in claims 1 and 12. The terminology should be consistent throughout the claims for clarification purposes.

Claim 28 recites that the "vertically movable slide element has an inverted 'T' shape" which is confusing and unclear since the claim is dependent upon claim 27. Claim 27 recites that the "vertically movable slide element has a cross shape." As understood, the two shapes are formed on different sides of the element. As claimed, it appears that the opening is both a cross shape and an inverted "T" shape, which is confusing since the two shapes are distinctly different.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Chu et al. (6,419,323).

Chu discloses an "elevation mechanism for an armchair armrest" comprising a support 34 connected to a chair and extending in a vertical direction, a structure 8 connected to the support and having a series of vertically aligned openings 11 and a slide element 1 positioned adjacent the structure 8 with the openings 11, a horizontally movable block 23, a rod 18 extending parallel to the slide element 1 and a biasing element 30. The slide element also includes a lateral opening 4 and the horizontal movable block 23 is positioned in the lateral opening. The rod also includes a handle and a depressed potion 22 for moving the block into and out of the openings in the structure 8. The block 23 is also disclosed as a "U-shaped block" and thus includes an opening for receiving the rod 18 there through.

Regarding claim 8, the slide element includes a longitudinal slot (vertical part of through hole 4) for guiding the rod.

With respect to claim 9, the lateral slot of through hole 4 is a guide for the block 23 when the block moves into and out of an opening in the structure 8.

In regards to claim 10, the spring 30 is located between the rod 18 and the slide element 1. Specifically, the spring is attached to the bottom of the slide element 1 with screw 31 into screw hole 5 while the top of the spring is attached to the protrusion block 27 on the bottom of the rod 18. Therefore, the spring is located between the screw 31 on slide element 1 and protrusion block 27 on rod 18.

Regarding claim 11, the support 34 is a guide for the slide element 1.

In regards to claim 12, the slide element includes an upper base or upper portion (top half of the slide element) with an opening 2, as seen in Figure 2. Further, the rod 18 includes an upper arm or upper portion (top half of the rod) for riding in the opening of the upper base of slide element, as seen in Figure 2.

With respect to claim 13, the structure 8 is a plate and includes cylindrical projections. The cylindrical projections include the top and bottom portion of the plate 34, as well as, steel ball 16 and an insert pin 14. Moreover, the support 34 includes an opening 33 for receiving the steel ball 16 and an opening 32 for receiving insert pin 14.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-4, 6, 7 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu et al. (6,419,323).

As disclosed in the 102 rejection above, Chu discloses all of the elements of claim 1. Further, Chu discloses a U-shaped block 23 including an opening through the block. The rod 18 also includes a structure 22 for engaging the block through the opening. The depressed groove 22 includes front and rear slanted surfaces acting as cams. The U-shaped block also includes front and rear surfaces acting as cam followers (seen in Figures 3-5). The front slanted surface of the depressed groove 22 pushes the front surface of the block to a lock position while the rear surface of the depressed groove 22

pushes the rear surface of the block to an unlocked position. Furthermore, the slide element 1 also includes a vertically oriented slot 4 for accommodating the depressed groove of the rod 18. Yet, Chu does not expressly disclose that the opening in the U-shaped block is slanted. However, since the applicant's specification does not state that the slanted opening of the horizontally movable block, as claimed, solves any particular problem or produces any unexpected result, whether the horizontally movable block has a slanted opening or a straight opening is merely a matter of engineering design choice, and thus does not serve to patentably distinguish the claimed invention over the prior art. Regarding claims 14-16, the slide element includes a longitudinal slot (vertical part of through hole 4) for guiding the rod. The lateral slot of through hole 4 is a guide for the block 23 when the block moves into and out of an opening in the structure 8. The support 34 is also a guide for the slide element 1.

With respect to claim 17-20, the structure 8 is a plate and includes cylindrical projections. The cylindrical projections include the top and bottom portion of the plate 34, as well as, a steel ball 16 and an insert pin 14. Moreover, the support 34 includes an opening 33 for receiving the steel ball 16 and an opening 32 for receiving insert pin 14. The slide element includes an upper base or upper portion (top half of the slide element) with an opening 2, as seen in Figure 2. Further, the rod 18 includes an upper arm or upper portion (top half of the rod) for riding in the opening of the upper base of slide element, as seen in Figure 2. The support 34 is also a guide for the slide element 1. Moreover, the slide element 1 includes a longitudinal slot (vertical part of through hole 4) for guiding

the rod, as well as, a lateral opening in through hole 4 for guiding the block 23 when the block moves into and out of an opening in the plate 8.

Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu et al. (6,419,323) in further view of .

Chu discloses an "elevation mechanism for an armchair armrest" comprising a vertically movable slide element 1 having an upper portion for mounting an armrest and including an opening 4, a horizontally slidable block 23 mounted in the opening 4, an elongated rod 18 having an operating handle and a cam surface or depressed groove 22, a spring 30, a plate 8 having vertically aligned openings 11, and a structure 34 for supporting the vertically movable slide element 1, the block 23, the rod 18, the spring 30 and the plate 8. Furthermore, the vertical movement of the rod 18 causes horizontal sliding movement of the block 23. Also, the depressed groove 22 or cams are slanted. Furthermore, the spring 30 is located between the rod 18 and the slide element 1. Specifically, the spring is attached to the bottom of the slide element 1 with screw 31 into screw hole 5 while the top of the spring is attached to the protrusion block 27 on the bottom of the rod 18. Therefore, the spring is located between the screw 31 on slide element 1 and protrusion block 27 on rod 18. The vertically movable slide element 1 also includes a vertical elongated slot (vertical part of through hole 4) for the rod 18. The vertically movable slide element includes a slot or screw hole 5 for the spring 30 and screw 31. The through hole or opening in the vertically movable slide element 1 is cross-shaped. Yet, Chu does not expressly disclose that the opening in the U-shaped block is slanted. However, since the applicant's specification does not state that the slanted opening of the horizontally

movable block, as claimed, solves any particular problem or produces any unexpected result, whether the horizontally movable block has a slanted opening or a straight opening is merely a matter of engineering design choice, and thus does not serve to patentably distinguish the claimed invention over the prior art. Moreover, Chu fails to expressly disclose a horizontal adjustable armrest assembly including two slide elements. Yet, Cao discloses a horizontal adjustable armrest device with first and second horizontal slide elements 22 that are mounted to the upper portion of a support base 4. Note, the support base 4 is similar in structure to the top of vertically movable slide element 1 disclosed by Chu. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the armrest of Chu with a horizontal adjustable slidable armrest assembly, as taught by Cao, for easily adjusting the armrest of the chair "in order to fit the arm size of the user" (col.1, line 10).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roney et al. (6,811,224), Lee (6,761,410), Roslund, Jr. et al. (6,619,746), McAllister et al. (6,394,553), Lee (6,336,680), Chuang (6,315,362), Chen (6,209,961), Lamart et al. (6,168,237), Yamagishi e4t al. (6,050,634), Van De Riet (5,667,277) and Hibbard et al. (2,549,902) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 26, 2005

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